IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWP No. 57 of 2004

Date of decision: 20.12.2006

Vishal Sood		Petitioner
	Versus	
State of H P & others		Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, J.

The Hon'ble Mr Justice Surinder Singh, J.

Whether approved for reporting ?[1]

For the Petitioner	Mr Suneet Goel, Advocate.
For respondent No.1	Mr M S Chandel, Advocate General, with Mr Ram Murti Bisht, Deputy Advocate General.
For respondent No.2	Mr Shrawan Dogra, Advocate.
For respondent No.3	Mr B N Misra, Advocate.
For respondent No.4.	Mr Rajesh Mandhotra, Advocate.

Deepak Gupta,J. (Oral)

This writ petition can be disposed of on a very short ground. Admittedly, the Municipal Corporation, Shimla, had executed a lease deed in favour of the petitioner, with respect to the

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

disputed property, which was initially leased out to Sh. Sansar Chand, grand father of the petitioner and father of respondent No.3 Vijay Kumar Sood. Respondent No.3 filed an application before the Secretary (Urban Development) Government of Himachal Pradesh, Shimla, in which specific challenge was laid to the grant of lease in favour of the petitioner Vishal Sood. The Secretary treated his application, as a petition, under Section 403 of the H P Municipal Corporation Act, 1994 and allowed the same. No notice of the said petition was given to the present petitioner. Thereafter, the present petitioner filed an application, for recalling of the orders, on the ground that adverse orders had been passed against him without giving him an opportunity of being heard. This application was disposed of vide order dated 25th February, 2003 which reads thus:

> "This is a petition filed by Sh.Vishal Sood s/o late Sh. Vinod Kumar Sood under Section 151 CPC for recalling of order dated 27.6.2002 on behalf of Sh. Vishal Sood (Proposed respondent No.2). In this regard a detailed order had been passed in the case titled Sh. Vijay Kumar Sood

> versus Municipal Corporat9on, Shimla on 27.6.2002. The learned counsel for the petitioner Sh. S.Goel has been heard. The learned counsel could not show or bring to notice any infirmity in the order passed on 27.6.2002. As such, I find no reason to recall the order. The present petition is therefore rejected."

In our opinion, the Secretary (Urban Development) has gravely erred in deciding the original revision petition, without giving an opportunity of being heard to the petitioner. We are not expressing any opinion on the merits of the case or the respective contentions and rights of the parties. The rights of the parties have to be determined by the Secretary (Urban Development) in the proceedings before him.

However, there is gross violation of the principles of the natural justice and the Secretary (Urban Development) has gravely erred in passing an order which prejudicially affected the rights of the petitioner without hearing him. Consequently, we set aside both the orders Annexure(s) P-2 and P-4, passed by the Secretary

(Urban Development) Government of Himachal Pradesh, Shimla, and direct that he shall hear the parties and decide the matter afresh, after affording an opportunity of hearing to all the parties concerned. The petitioner and contesting respondents 1 to 4 are directed to appear before the Secretary(Urban Development) Government of Himachal Pradesh, Shimla, on 11th January, 2007, on which date the Secretary (Urban Development) shall fix a date for hearing of the case and shall dispose of the petition as expeditiously as possible and in any event not later than March 31,2007. The petition stands disposed of in the terms indicated above.

Interim order shall continue till disposal of the revision petition. All the other pending applications shall stand disposed of. Copy Dasti.

(Deepak Gupta),J.

December 20, 2006 (Surinder Singh),J.
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